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## TRANSMITTAL FORM

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Total Number of Pages in This Submission

3

Application Number

10/070,349

Filing Date

August 16, 2002

First Named Inventor

Christopher John Farrell

Art Unit

3732

Examiner Name

John J. Wilson

Attorney Docket Number

P1096/20003

### ENCLOSURES (Check all that apply)

☐ Fee Transmittal Form (In duplicate)

☐ Fee Attached

☒ Amendment/Reply

☐ After Final

☐ Affidavits/declaration(s)

☐ Extension of Time Request

☐ Express Abandonment Request

☐ Information Disclosure Statement

☐ Certified Copy of Priority Document(s)

☐ Reply to Missing Parts/ Incomplete Application

☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53

☐ Drawing(s)

☐ Licensing-related Papers

☐ Petition

☐ Petition to Convert to a Provisional Application

☐ Power of Attorney, Revocation

☐ Change of Correspondence Address

☐ Terminal Disclaimer

☐ Request for Refund

☐ CD, Number of CD(s) \_\_\_\_\_

☐ Landscape Table on CD

☐ After Allowance Communication to TC

☐ Appeal Communication to Board of Appeals and Interferences

☐ Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)

☐ Proprietary Information

☐ Status Letter

☒ Other Enclosure(s) (please identify below):

Return Postcard

Remarks

Please charge Attorney Account No. 03-0075 as necessary to effect entry and/or ensure consideration of this submission.

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

Caesar, Rivise, Bernstein, Cohen & Pokotilow, Ltd., Customer No. 03000

Signature

Printed name

Martin L. Faigus

Date

10/29/2004

Reg. No.

24,364

### CERTIFICATE OF TRANSMISSION/MAILING

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10/29/2004

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PATENT

THE UNITED STATES PATENT AND TRADEMARK OFFICE  
PATENT EXAMINING OPERATION

Applicant(s): Christopher John Farrell

Serial No: 10/070,349

Group Art Unit: 3732

Filed: August 16, 2002

Examiner: John J. Wilson

Att. Docket No.: P1096/20003

Confirmation No.: 9999

For: ORAL APPLIANCE

**RESPONSE TO FINAL ACTION**  
**UNDER 37 CFR 1.116**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is responsive to the Final Office Action mailed from the United States Patent and Trademark Office on October 15, 2004.

In the Final Office Action the Examiner withdrew all of the prior rejections based upon prior art, but continued to maintain a double-patenting rejection based on a judicially created doctrine grounded on public policy.

In applicant's previous Amendment, a Terminal Disclaimer was filed to overcome the double-patenting rejection. However, in the Final Office Action the Examiner stated that the Terminal Disclaimer did not comply with the Rules of Practice because it cannot be signed by an attorney or agent that is not of record. Apparently, Examiner Wilson was under the impression that the undersigned counsel, who also signed the Terminal Disclaimer, was not an attorney of record.

In a telephone conference with Mr. Wilson on October 28, 2004, counsel advised Mr. Wilson that a Power of Attorney was filed on August 16, 2002, appointing the practitioners at Customer No. 03000. Mr. Wilson reviewed his file and confirmed that the Power of Attorney